

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICHOLAS JAMES REAL BIRD,

Defendant.

CR 22–46–BLG–DLC

ORDER

Before the Court is United States Magistrate Judge Timothy J. Cavan’s Findings & Recommendations Regarding Revocation of Supervised Release. (Doc. 73.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Cavan found, based on Mr. Nicholas James Real Bird’s admissions at the hearing, that he committed eight violations of the conditions of his supervised release. Specifically, Judge Cavan found that Mr. Real Bird violated (1) the special

condition that he participate in substance abuse testing, (2) the special condition that he participate in and successfully complete an outpatient substance abuse treatment program, (3) the mandatory condition that he refrain from any unlawful use of a controlled substance, (4) the special condition that he abstain from consumption of alcohol, and (5) the standard condition that he must not knowingly leave the federal district where he is authorized to reside without permission. (Doc. 73 ¶¶ 1–5.)

Judge Cavan recommends that this Court revoke Mr. Real Bird's supervised release and sentence him to a custodial sentence of six (6) months imprisonment, followed by 26 months of supervised release. (*Id.* ¶ 1.) Judge Cavan further recommends that Mr. Real Bird should be placed at FCI Sheridan. (*Id.* ¶ 2.) The Court finds no clear error in Judge Cavan's Findings and Recommendations.

Accordingly, IT IS ORDERED that Judge Cavan's Findings and Recommendations (Doc. 73) are ADOPTED in full.

Mr. Red Bird shall be sentenced in conformity with Judge Cavan's recommendation in the judgment filed concurrently with this Order.

DATED this 29th day of October, 2024.



Dana L. Christensen, District Judge
United States District Court